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Attorneys for Defendant, County of Los Angeles, a public entity

**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA**

CALVIN LORENZO MORRIS,

Plaintiff,

vs.

CITY OF LOS ANGELES, COUNTY
OF LOS ANGELES, LOS ANGELES
WORLD AIRPORTS, AND DOES 1
THROUGH 10, INCLUSIVE,

Defendants.

Case No.: 2:22-cv-09277-ODW-
MRWx

[Honorable Otis D. Wright II, United
States District Judge]

**DEFENDANT COUNTY OF LOS
ANGELES' NOTICE OF MOTION
TO FIRST AMENDED
COMPLAINT [ECF 37]**

DATE: October 23, 2023

TIME: 1:30 p.m.

Courtroom: 550, 5th Floor

First Street Courthouse

350 West 1st Street

Los Angeles, CA 90012

Trial Date: June 18, 2024

1 **TO THE HONORABLE OTIS D. WRIGHT II, UNITED STATES DISTRICT**
 2 **JUDGE, TO THE PLAINTIFF, CALVIN LORENZO MORRIS, BY AND**
 3 **THROUGH HIS COUNSEL, AND TO ALL PARTIES HEREIN:**

4 **PLEASE TAKE NOTICE** that on Monday, October 23, 2023, at 1:30 p.m.,
 5 or soon thereafter as this matter may be heard in Courtroom 5D, 5th Floor, in the
 6 above-entitled court located at the First Street Courthouse, 350 W. 1st Street, Los
 7 Angeles, CA. 90012, or subject to the Court’s approval via the Zoom link as
 8 follows:

9 Telephone: (669) 254-5252

10 Webinar ID: 161 013 5754

11 Passcode: 136454

12 At said time and place or method, Defendant County of Los Angeles
 13 (“County” or “Defendant”) will and hereby does move the Court to dismiss without
 14 leave to amend Plaintiff Calvin Lorenzo Morris’ First Amended Complaint (FAC)
 15 pursuant to Federal Rule of Civil Procedure (“Rule”) 12(b)(6).

16 County is named in the Fifth Claim under *Monell*. The grounds for this
 17 motion are:

18 (1) Under Rule 12(b)(6), the Fifth Claim does not state a claim against
 19 County upon which relief can be granted under *Monell v. Dep’t. of Soc. Servs.*, 436
 20 U.S. 658 (1978).

21 (2) Under Rules 12(b)(6), and 16(b)(4), the Fifth Claim against County
 22 incorporates allegations and amendments that exceed the limited leave to amend
 23 granted by this Court, that are beyond the Scheduling Order cut-off deadline in
 24 violation of Rule 16(b)(4).

25 (3) Under Rules 12(b)(6), and 16(b)(4), the Fifth Claim against County
 26 incorporates allegations and amendments, including new theories and additional
 27 new parties, that were made after the amendment/new party cut-off set by the
 28 Scheduling Order, and in violation of Rule 16(b)(4).

(4) Under FRCP 8, it is unclear whether the Fifth Claim against the County is based on an alleged over detention of Plaintiff, or if Plaintiff also contends that County employees also arrested Plaintiff, a defect noted in the Court's Order granting the prior motion to dismiss.

This motion will be based on this Notice of Motion, the Memorandum of Points and Authorities, the FAC (ECF 37), the Order granting limited leave to amend (ECF 35) and the Scheduling Order (ECF 29), on file herein, and any other papers on file herein, and upon such additional material as the Court may consider at any hearing on this motion.

COMPLIANCE WITH LOCAL RULE 7-3

Defense counsel Anita Susan Brenner, Esq., ("Brenner") and Plaintiff's counsel Jerry L. Steering ("Steering") met and conferred at an in chambers video conference conducted by U.S. Magistrate Judge Michael Wilner on August 23, 2023. ECF 42. Following the August 23rd conference, both counsels continued to meet and confer but have not resolved the issues presented in this motion to dismiss. Steering has acknowledged that there are defects in the FAC.

On August 26, 2023, Steering emailed Brenner an executed written stipulation, which included an agreement to seek an order to extend time for this motion, and was applicable to both City, Airport and County. On August 28, 2023, counsel for City and Airport emailed a signed copy of the stipulation. Counsel for City/Airport emailed the stipulation with his signature on August 28, 2023. On receipt, Brenner promptly filed the application to extend time. ECF 43.

Due to the short time frame, and the significance of the addition of new parties beyond the Scheduling Conference deadlines, and the existing trial date and related Schedule, County now files this motion.

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Respectfully submitted,

Dated: August 29, 2023

LAW OFFICES OF TORRES AND BRENNER

By: /s/ Anita Susan Brenner,
Anita Susan Brenner, Esq.,
Attorney for Defendant County of Los
Angeles

CERTIFICATE OF SERVICE

Case Name: *Morris v. City of Los Angeles, et al.*

Case No.: 2:22-cv-09277-ODW-MRWx

I am employed in the county of Los Angeles, State of California. I am over the age of 18 and not a party to the within action. My business address is 301 East Colorado Boulevard, Suite 614, Pasadena, California 91101.

I hereby certify that on August 29, 2023, I electronically filed the following document(s) with the Clerk of the Court by using the CM/ECF system:

- 1. DEFENDANT COUNTY OF LOS ANGELES' NOTICE OF MOTION TO DISMISS FIRST AMENDED COMPLAINT**
- 2. MEMORANDUM OF POINTS AND AUTHORITIES IN SUPPORT OF DEFENDANT COUNTY OF LOS ANGELES' MOTION TO DISMISS FIRST AMENDED COMPLAINT**
- 3. [PROPOSED] ORDER RE: DEFENDANT COUNTY OF LOS ANGELES' MOTION TO DISMISS FIRST AMENDED COMPLAINT**

Participants in the case who are registered CM/ECF users will be served by the CM/ECF system.

Plaintiff Calvin Lorenzo Morris is represented by:

Jerry L Steering, Esq. (SBN 122509)
 Brenton Whitney Aitken Hands, Esq. (SBN 308601)
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 Newport Beach, CA 92660
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1 Defendants City of Los Angeles and Los Angeles
2 World Airports, a department within
3 the City of Los Angeles are represented by:

4 Rodolfo F. Ruiz, Esq. (SBN 163877)
5 John T. Rosenthal, Esq. (SBN 206126)
6 VANDERFORD & RUIZ, LLP
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8 Pasadena, CA 91106
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Facsimile: (626) 405-8868
Email: jrosenthal@vrlawyers.com
rruiz@vrlawyers.com

10 I declare under penalty of perjury that the foregoing is true and correct, and
11 that this certificate was executed in Pasadena, California on August 29, 2023.

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13 /s/Idalia Guzman

14 Idalia Guzman
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